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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/071,005

06/17/2002

Markus Zeller

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09/23/2005

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EXAMINER

AVELLINO, JOSEPH E

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,005

Applicant(s)

ZELLER ET AL.

Examiner

Joseph E. Avellino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-7, 9-12 are presented for examination; claim 1 independent. The Office acknowledges the cancellation of claim 8.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawakita in view of Lebrun et al. (USPN 5,548,579) (hereinafter Lebrun).

3. Referring to claim 1, Kawakita discloses a communications network for an office building so as to connect at least three terminal units within the office, comprising:

a central data bus 12 for transmitting the data to be transmitted between at least the said three terminal units 10 (Figure 5; col. 4, lines 20-30);

a first network terminating device (18) which is provided for a first terminal unit and which comprises interfaces for communication devices which may be disposed in the first terminal unit (i.e. branch system for value added services) (Figure 5; col. 6, lines 5-15);

a first interface 22 which is allocated to said first network terminating device and which is disposed between the central data bus and the first network terminating device

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and which is designed for controlling an access of the first network terminating device to the central data bus (col. 6, lines 5-15);

a second network terminating device (9 on 19th floor, block 2) which is provided for a second terminal unit and which comprises interfaces for communication devices which may be disposed in the second terminal unit (i.e. branch system for each "block"/office) (col. 5, lines 15-47);

a second interface 9 which is allocated to said second network terminating device and which is disposed between the central data bus and the second network terminating device and which is designed for controlling an access of the second network terminating device to the central data bus (i.e. it is inherent that a router can control access to a data bus, in this case the transmission ring (col. 5, lines 15-47);

a third network terminating device (9 on 5th floor, block 2) which is provided for a third terminal unit and which comprises interfaces for communication devices which may be disposed in the third terminal unit (i.e. branch system for each "block"/office) (col. 5, lines 15-47);

a third interface 9 which is allocated to said third network terminating device and which is disposed between the central data bus and the third network terminating device and which is designed for controlling an access of the third network terminating device to the central data bus (i.e. branch system for each "block"/office) (col. 5, lines 15-47);

wherein the central data bus 12 is a jointly utilized transmission path which may be accessed by the first, second, or third network terminating device without considering

other network devices (i.e. the first, second or third network devices do not require to go through another network device to access the transmission ring) (Figure 5, all);

wherein the central data bus comprises:

a backbone section (i.e. part of transmission ring connecting far left FDDI node 10 to farthest right FDDI node 10 encompassing FDDI node 22) connected to the first interface means (i.e. FDDI node 22) allocated to the first network terminating device, a first hub (i.e. far left FDDI node 10) connected to the backbone section 12, a secondary section connected to the first hub and the second interface (i.e. the section from FDDI node 10 connecting the router 9 to the central bus), a second hub (i.e. farthest right FDDI node 10) connecting to the backbone section (i.e. section of transmission ring connecting FDDI Node 22 to farthest right FDDI node 10), a secondary section connected between the second hub and the third interface means allocated to the third network terminating device (i.e. the section from FDDI node 10 connecting the router 9 to the central bus) (Figure 5);

wherein said first, second, and third interface are arranged for controlling said access to the first, second, and third network terminating device on the central data bus such that guaranteed transmission parameters are guaranteed for a communication between the first second and third network terminating device via the central data bus (Kawakita discloses the transmission ring 20 is utilized as an FDDI ring, and as seen in Milway, USPN 6,122,279, FDDI can guarantee a minimum bandwidth connection thereby providing the QoS necessary to prevent distortions, see col. 1, lines 45-51, and therefore this feature would be inherent to the system of Kawakita) (Applicant is invited

to view MPEP 2131 regarding using a secondary reference to show that a characteristic not disclosed in the reference is inherent and *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991)).

Kawakita does not specifically disclose each network terminating device or each communication device connected to the network terminating device is formed so as to arrange, together with the interface which has been allocated to the same, transmission parameters for a transmission via the central data bus for achieving an *adaptive* service quality. In analogous art, Lebrun discloses another communications network to connect at least three terminal units which discloses network terminating device or each communication device connected to the network terminating device is formed so as to arrange, together with the interface which has been allocated to the same, transmission parameters for a transmission via the central data bus for achieving an adaptive service quality (the Office takes the term “adaptive service quality” as a QoS characteristic which can change, such as the bandwidth allocation request of Lebrun) (e.g. abstract). It would have been obvious to one of ordinary skill in the art to combine the teaching of Lebrun with Kawakita in order to allow the branch terminals of Kawakita (i.e. the Offices in each block) to incorporate different QoS requirements since different offices may have different requirements, such as one office being the corporate server HQ, while another may be a department with reduced requirements and a lower priority, thereby allowing efficient utilization of bandwidth amongst the Offices of Kawakita and allowing utilization without undue overhead processing.

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4. Referring to claim 2, Kawakita disclose the central data bus is a broadband cable network (i.e. optical fiber cables) (col. 4, lines 40-44).

5. Referring to claim 3, Kawakita discloses the interfaces of the first through third network devices are interfaces for an Ethernet system (i.e. the branch system networks of the Offices are Ethernet standard) (col. 5, lines 15-45).

6. Referring to claim 4, Kawakita discloses the invention substantively as described in claim 1. Kawakita further discloses a modem pool (which is an interface to an external communication system so as to permit a data communication connection between the communication devices connected to the network terminating devices and a subscriber of the external communication system) which are connected to the branch system LAN through a communication server (i.e. the first network terminating device) (col. 6, lines 35-49). Kawakita does not specifically disclose permitting a voice as well as a data communication, however if there is a modem pool, there inherently must be a telephone line, since a modem pool is useless without an external connection to a telephone system. It is also well known that corporate offices require and utilize telephone systems with multiple lines, and therefore would be obvious to one of ordinary skill in the art to allow a voice connection over the inherent telephone lines.

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7. Referring to claim 5, Kawakita inherently discloses the external communication system is a broadband copper cable (i.e. a telephone connection inherently connected to the modem pool) (col. 6, lines 35-49).

8. Referring to claim 6, Kawakita discloses the data bus is embodied by an optical fiber cable (col. 4, lines 44-50).

9. Referring to claim 7, Kawakita inherently discloses at least one terminating device is formed so as to enable a communication between the communication devices connected to the interfaces of the same without transmitting data concerning this communication via the central data bus on a broadband basis since it is understood that the computers of each office can communicate with one another (col. 5, lines 30-48).

10. Referring to claim 9, Kawakita discloses the interfaces are formed to establish one parameter such as bandwidth reservation (see rejection based on Milway disclosed above).

11. Referring to claim 10, Kawakita discloses said first, second, and third interface have been arranged so as to implement a decentralized selection procedure for controlling said access to the data bus (FDDI utilizes a token system) (col. 4, line 52).

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12. Referring to claim 11, Kawakita discloses the interface is located so as to implement a token-passing procedure (i.e. append-token-protocol) (col. 4, line 52).

13. Referring to claim 12, Kawakita discloses the central data bus with respect to its data transmission capacity is scalable on a required data capacity (this is an inherent feature of any token ring implementation, since the larger the ring, such as the more nodes are implemented, the more data can be implemented on the ring).

Response to Arguments

14. Applicant's arguments filed August 8, 2005 have been fully considered but they are not persuasive.

15. In the remarks, Applicant argues, in substance, that (1) Kawakita does not disclose a trunk/branch structured Ethernet central bus but rather only an optical four-core-fiber ring structure, and (2) LeBrun discloses a central QoS service control while the claimed invention is limited to a decentralized adaptive service quality determination.

16. As to point (1) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a trunk/branch structured Ethernet central bus) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

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limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant will furthermore appreciate that wide latitude is given to the term "central bus". A transmission ring connects other LANs (i.e. from Offices) to one another, thereby satisfying the functionality of a central bus. By this rationale, the rejection is maintained.

17. As to point (2) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. a decentralized adaptive service quality determination) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Although the claimed invention allows the access by the first, second, or third network terminating devices without considering other network terminating devices, nowhere is it claimed that the adaptive QoS is done without considering the other network terminating devices. By this rationale, the rejection is maintained.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

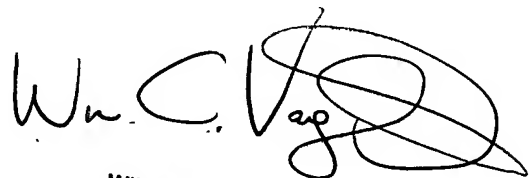
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA

September 10, 2005



WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER